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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/004,803    01/09/98    EPPS

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EXAMINER
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PM82/0426

John R. Merkling  
310 South Yaupon  
Richwood TX 77531-2229

STRIMBU,G	
ART UNIT	PAPER NUMBER

3634  
DATE MAILED:

04/26/00

19

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/004,803**

Applicant(s)  
**Epps et al.**

Examiner  
**Gregory J. Strimbu**

Group Art Unit  
**3634**



☒ Responsive to communication(s) filed on Jan 26, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5, 7, 9, and 10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-5, 7, 9, and 10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jan 9, 1998 is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Feb 16, 1999 is ☒ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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In light of the applicant's comments and arguments presented in the response filed January 26, 2000, paper No. 17, the finality of the previous Office action has been withdrawn. The application, however, is not in a condition for allowance for the reasons set forth below.

### *Drawings*

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on August 3, 1999 have not been approved because the applicant has failed to show the changes in red in accordance with 37 CFR 1.121(3)(ii). The applicant is requested to file a marked-up copy of the drawings showing the corrections in red and a new set of formal drawings incorporating the changes shown in the marked-up copy.

Therefore, the drawings are objected to because throughout the figures several of the lead lines fail to accurately indicate the element of the invention to which a respective reference character refers. For example, see figure 1, wherein the lead line for reference character "31" fails to accurately indicate a fastener. Although the drawings have been indicated as informal, the applicant is reminded that all cross-sectional views and partial sectional views, such as the one shown in figure 1, require proper cross-sectional shading to indicate the material from which the element(s) of the invention are made. See MPEP 608.02. In figure 1, it appears that the portion of the top frame member 19 which is hidden from view by the building wall 10 should be shown with hidden lines to indicate the proper spacial relationship with respect to the building wall 10.

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In figure 5, the reference characters "16" and "17" each require a lead line indicating the element of the invention to which each of the reference characters respectively refers. Correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor assembly must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Although the examiner agrees that showing the window motor operator assembly is not essential to the understanding of the applicant's invention, it is nonetheless required since the applicant has claimed such a structure. See 37 CFR 1.83(a).

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of figure 5 in view of Jonsson '912. The admitted prior art of figure 5

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discloses a fast food service window comprising a window assembly with at least one movable window member 16, a window motor operator assembly (not shown, but disposed behind upper frame member 21) mechanically coupled to the movable window member 16, proximity sensor 60 electrically coupled to the motor operator assembly, wherein the movable window member 16 opens whenever a person is sensed by the proximity sensor 60. The movable window member 16 is opened when an infrared beam is detected by an infrared receiver 62 and is closed when the infrared beam is not detected by the infrared receiver 62. The sensor 60 has an integral emitter 61 and receiver 62. The admitted prior art of figure 5 is silent concerning focusing a plurality of sensors upwardly.

However, Jonsson '912 discloses a sensor 10 having a plurality of integral infrared emitters 14 and sensors 16. The sensors 16 and the emitters 14 are angled upwardly as shown in figure 4. The sensor 10 is angled such that it will only operate the door when a person is in a predetermined desired position.

It would have been obvious to one of ordinary skill in the art to position the plurality of sensors of the admitted prior art of figure 5 upwardly to only operate the door when a person is in a desired predetermined position, as taught by Jonsson '912, to prevent the door from unexpectedly opening, to conserve energy and to increase the working life of the door.

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***Response to Arguments***

Applicant's arguments filed January 26, 2000 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Deeg and Trett et al. are cited for disclosing an upwardly facing sensor.

***Conclusion***

**THIS ACTION IS NOT MADE FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



Gregory J. Strimbu  
Patent Examiner  
Art Unit 3634  
4/24/00